UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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March 3, 2008

Mr. Mark D. Bartlett
Division Administrator
Federal Highway Administration
500 Eastern Blvd., Suite 200
Montgomery, Alabama 36117

SUBJECT: EPA Comments on the US 231/Interstate 10 Connector
Draft Environmental Impact Statement (DEIS)
Dale, Houston, and Geneva Counties, Alabama
CEQ #: 20080010 **ERP #**: FHW-E40819-00

Dear Mr. Bartlett:

Pursuant to Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA), EPA Region 4 has reviewed the subject document. EPA previously participated in a scoping meeting for the proposed project on August 24, 2004. The DEIS examines the Federal Highway Administration (FHWA), U.S. Department of Transportation (USDOT) and Alabama Department of Transportation (ALDOT) proposal to construct a twenty-four mile, four-lane, limited access facility that will connect US 231 and Interstate 10. At the state line, the proposed connector may tie into a proposed roadway constructed by Florida Department of Transportation. This roadway will then connect to Highway 98 in Florida.

The DEIS examines one no-build and three build alternatives (Alts. 1, 4 and 6). The preferred alternative, (Alt. 1) will impact 88 residences and 11 businesses, 70 acres of wetlands, 5,492 linear feet of streams, 23 noise sensitive sites, 5 cultural resource sites and 1,035 acres of agricultural lands (Table S-1). The proposed project will bypass downtown Dothan to the west with approximately nine connecting interchanges at the following locations: US 231 north of Dothan, CR 203, CR at Jones Crossroads, SR 52, CR 93, SR 109, US 84, CR 47 and US 231 south of Dothan (pg 2-4 and S8). This preferred alignment, on balance, appears to result in the fewest overall environmental impacts. However, it presents greater environmental justice concerns when compared to the other build alternatives.

Based on our review of the DEIS, EPA offers the following comments on wetlands and aquatic resources, air toxics, environmental justice, agriculture and cultural resources. These recommendations should be considered in the development of the final EIS (FEIS).

Wetlands and Waters of the U.S: Wetlands and aquatic resources are present along all three build alternatives (Alt.1, 4, and 6). According to the DEIS, 55 wetlands and 53 streams are identified within the project corridor. The preferred alternative (Alt. 1) contains 70 acres of wetland impacts and 5,492 linear feet of stream impacts. The remaining alternatives (Alts. 4 and 6) may impact 66.17 and 69.53 acres of wetlands and 8,772 and 6,275 linear feet of streams, respectively. Based on this information, the preferred alternative has the least amount of linear feet of stream impacts and about the same amount of wetland impacts as the other built alternatives. However, there does not appear to be any functional wetlands assessments for the proposed alternatives in the DEIS. Consequently, it is unclear whether the preferred alternative (Alt. 1) will impact higher functioning wetlands and/or streams compared to other alternatives.

Recommendation 1: The FEIS should include a description of the functions and the quality of the wetlands and streams that will be impacted. It should also indicate the actions that will be undertaken to avoid and minimize the adverse effects of discharges of dredged or fill material within the proposed project area. These actions should include the selection of the disposal site. EPA recommends that every effort should be made to further avoid impacts to more valuable wetland habitats and higher quality streams. In an effort to further avoid and minimize impacts to these aquatic resources, bridging, construction design methods and timing of discharge activity should be considered. The FEIS should document any commitments to reduce impacts to wetland and aquatic resources.

Compensatory mitigation is required for any unavoidable impacts that occur after avoidance and impact minimization measures have been fully evaluated. The DEIS states that a conceptual mitigation plan was prepared for the preferred alternative (Alt. 1) and could be found in Appendix F. However, EPA was unable to locate a mitigation plan in Appendix F of the DEIS during the environmental review process.

Recommendation 2: The FEIS should include a draft compensatory mitigation plan that ensures adequate replacement of aquatic resources and functions that may be lost as the result of the proposed project. The following measures should be included in the proposed mitigation plan:

1. Identify and assess/inventory at least one reference site in the same basin for each of the habitats that will be impacted taking into account landscape location relative cross section, and source and function of hydrology.

2. Build success criteria by measuring vegetation, hydrology, and biota for the reference site identified in paragraph 1 above. And, incorporate the data from the reference site into the criteria measuring success in the proposed mitigation areas.

3. Document the manner in which the compensatory mitigation package addresses temporal loss, risk of failure and provides for adequate in-kind replacement of lost

functions.

4. Define the buffers and restrictive covenants or other means of protection proposed in the mitigation plan. The buffers should consist of natural communities that enhance the wetland or stream functions. The restrictive covenants (or conservation easements) should ensure that the mitigation areas are maintained and preserved in perpetuity.

5. Establish a contingency plan which provides functional replacement in the event that the proposed mitigation does not succeed.

6. Transfer title or otherwise legally encumber the proposed mitigation sites and buffers to ensure that the restored, enhanced or created wetland and stream systems offered as mitigation remain intact in perpetuity.

Floodplains: All three build alternatives traverse the 100-year floodplain. The preferred alternative (Alt. 1) crosses the proposed floodplains associated with Little Choctawhatchee River, Newton Creek, Big Creek, Cooper's Bay Creek and unnamed creeks near the Alabama/Florida State Line. EPA notes that the preferred alternative (Alt. 1) both crosses the fewest number of floodway areas (5) and has the shortest floodplain crossing length (3,600 feet) of the proposed build alternatives. It remains unclear, however, how much of the 100-year floodplain (acres) will be filled by the proposed project. According to the DEIS, the project will be designed to cause no more that one foot rise in high water.

Recommendation: EPA recommends that ALDOT coordinate with EPA's Wetland Regulatory Section and provide them the final drainage structure design to ensure that any additional flood risks posed by the proposed project are minimal. In addition, information regarding the quantity of proposed fill and specific measures (beyond crossing at the narrowest point) that will be taken to reduce impacts to the 100-year floodplain should be included in the FEIS. EPA also suggests that the information related to the length of floodplain crossings in *Appendix E – Flood Risk Assessment* needs to be summarized by each alternative and incorporated in the body of the FEIS Section 4.9 – *Floodplains and Floodways.*

Water Quality: The DEIS does describe several factors which could impacts the water quality associated with the aquatic resources in the project area. It also indicates that two creeks, Big Creek and Beaver Creek, are classified as fish and wildlife by the State of Alabama. However, it is unclear to what extent this project will impact both the fish and the wildlife surrounding these aquatic resources. In addition, the DEIS does not indicate whether there are any waterbodies in the vicinity of the project area currently listed as impaired due to pollutants.

Recommendation: Additional documentation is needed to determine potential impacts of the project to these waterbodies, and in particular to those waterbodies with special designated uses, suitable threatened and endangered habitats or possible water quality impairments. The FEIS should indicate whether impaired waterbodies exist within the

proposed project right-of-way.

Little Choctawhatchee Reservoir: The U.S. Army Corps of Engineers (COE) plans to construct a reservoir in the Little Choctaw River Basin. Three alternatives are being considered. The preferred alternative for this project would cross the reservoir if it is constructed at location one (Page 2-4). A bridge would be required in order to span the reservoir.

Recommendation: The proposed project could pose a public health threat to the populations that are dependent on reservoir as their drinking water source. Efforts by ALDOT and FHWA in coordination with the COE and Alabama Department of Public Health should be made to ensure that pollutant runoff from vehicular traffic and highway maintenance efforts are prevented from entering the reservoir.

Environmental Justice Considerations: Table 3.3 entitled, "Demographic Characteristics" presents the racial composition and poverty levels within the affected project area. However, it does not include a reference population such as the State Averages (Page 3.3). This information appears to be in the section entitled, "Environmental Justice" (Page 4-11). The DEIS provides poverty data for the city of Dothan, the three Counties and the state of Alabama using 1990 data (Page 4-11). The County level data indicates that Geneva County has a higher percentage of people living below poverty than the State, while the remaining two counties had poverty levels similar to state average. It is unclear why 1990 data is used to determine poverty when 2000 Census data is used for racial compositions and is readily available.

According to the DEIS, approximately 15 percent (13) of the displacements along Alternative 1 will be minority and 37 percent (32) will be low income (Page 4-11). The thirty-seven percent residential displacements within the low-income categories appear to be greater than the County averages (14.8 – 19.4 % 1990 data). While there are fewer residential displacements overall than the remaining alternatives, the proportion of low income displacements is much higher that the other alternatives. The DEIS states that adverse effects resulting from the proposed project would not be predominately borne by minority and /or low-income populations; therefore construction of the proposed alternative would not have a disproportionate impact on these populations. However, alternative 1 does have a greater percentage of low-income residential displacements (37%) when compared to the average percentage of low-income residents in the City (15.3%), County (14.8, 15.1, and 19.4%) and the State (16.1%). It also has the highest number of commercial relocations (11) including a greater percentage (37% or 3) of minority-owned and operated commercial displacements relative to each of the other alternatives (0). While, the commercial relocation numbers appears to be relatively small, these incremental adverse affects result in cumulative impacts to communities with potential EJ concerns.

Recommendation: EPA recommends that the table 3.3 entitled, "Demographic Characteristics" should include the demographics from the State of Alabama as a

reference population. The FEIS should include a poverty assessment that uses the most recent poverty data. It should include data obtained no later than 2000 except in the use of a trends analysis. The preferred alternative (Alt.1) displaces potential EJ populations to both a greater degree than other proposed build alternatives and at a substantially greater proportion when compared to the City, County and State averages. Therefore, the adverse impacts of the project are being borne by potential EJ populations in greater proportion than what would be expected by State averages. The FEIS should add to the EJ discussion and document efforts to further minimize project-related impacts.

Noise: There are 23 to 67 sites that are expected to exceed FHWA's noise abatement criteria (Page S-8). In addition, between two and eleven sites will experience substantial noise increases of 15 decibels or more while sixteen to eleven sites have increases of 10 decibels or more (Pages S-8 and 4-25 -33). According to the DEIS, certain residential and business sites noise calculations associated with Alternatives 4 and 5 are not presented in Table 4.5 because the receptors are proposed for removal due to alignment shifts. The preferred alternative (Alt.1) includes 23 substantially impacted receptors. Ten of these receptors are identified in the DEIS as isolated and not reasonable for barrier analysis. The remaining thirteen receptors are located near proposed interchanges and according to the DEIS these breaks for access would render structural noise barriers infeasible (Pages 4-55 and 56). Consequently, no noise or unreasonable at the remaining project alternatives

Recommendation: The DEIS indicates that certain conventional methods of noise abatement (e.g., noise barriers) are infeasible for the project due to its rural nature and access gaps between clustered receptors. However, because the proposed project will have significant noise impacts, the FEIS should emphasize what measures ALDOT can take to reduce these noise impacts. These might include shifting alignments, relocation of willing residents, use of pavements that reduce noise at the source, and landscaping that includes vegetative screens. A combination of these and/or other methods can also be beneficial to cumulatively attenuate overall highway noise levels. The degree of noise attenuation from selected measures should be estimated in the FEIS and verified (monitored) after potential project construction.

Air Toxics: The DEIS states that "the quality of life, especially in those areas immediately adjacent to the alternatives under study, would suffer from slight degradation. This degradation would be primarily in the form of increased noise and visual impacts caused by the construction of a major highway where none currently exists (Page 4-8).

Recommendation 1: The FEIS should assess for each alternative, the impact of air toxics associated with construction and operation of the highway, based on emissions, dispersion modeling, and screening level risk assessment in locations where people reside, work, and go to school/day care. There is increasing evidence that living near high traffic roadways associated with adverse health effects. This will be a major highway whose length will be approximately 24 miles. One alternative would bisect a proposed subdivision. The FEIS should include a detailed discussion of the evidence

concerning near-roadway health impacts and, for each alternative, the potential for such impacts during and following completion of the project.

The FEIS also states that "Although there is no practical way to reduce emissions from construction vehicles or other machinery, these impacts should be slight and of short duration (Page 4-22)."

Recommendation 2: EPA refers the FHWA and the ALDOT to a 2004 report requested by the American Association of State Highway and Transportation Officials (AASHTO) and prepared by the National Cooperative Highway Research Program, Transportation Research Board, entitled, "Environmental Stewardship Practices, Procedures, and Policies for Highway Construction and Maintenance." The report notes that State transportation agencies and their federal partners have increasingly integrated environmental stewardship into maintenance and construction activities; however information on these efforts has not been adequately summarized or disseminated. This project is intended to enable transportation agencies to more fully benefit from each other's experience, to help more fully integrate stewardship into all aspects of their work in these areas. The report addresses design, construction, materials, and maintenance. The type of information included in this report should be used to offer and assess a variety of approaches to reduce the environmental impacts of construction and operation of the highway.

Prime and Unique Farmland: The proposed project area includes large amounts of agricultural lands that are often used for farming soybean, peanuts and corn. All three alternatives will convert approximately 1,500 acres of farmland to right-of-way (Page 4-153). However, according to the *Guidelines for Implementing the Final Rule of the Farmland Protection Policy Act for Highway Projects*, the sites did not receive a high enough farmland conversion impact rating to be considered for protection. The preferred alternative (Alt. 1) is expected to directly convert 237.6 acres of farmland within the project area. Some farms will be split or portions of the farms will become inaccessible.

Recommendation: EPA notes that while the ratings are not deemed high enough to be considered for protection, efforts should be made to minimize impacts to the highly productive farms in the project area. In addition, it is important that the farmer owners in the project area are coordinated with as part of the public involvement process and their perspectives are summarized and accurately reflected in the FEIS. The FEIS should also discuss proposed compensation for farmland loss.

Archeological Resources: A full Phase I survey has not been conducted on the proposed project. Nine archeological sites are identified as potential eligible for the National Register. Four additional sites eligibility is unknown (Page S-9). Preliminary surveys indicate that alternative 1, 4, and 6 have the potential to affect five, seven and seven potentially eligible archeological sites for the National Registry of Historic Resources (NRHP) or sites of unknown eligibility, respectively. Fifteen sites are dismissed In the DEIS as ineligible for the NRHP. The DEIS states that a full Phase I Survey would be conducted once a preferred alignment was selected. EPA notes that a preferred alignment

(Alt. 1) has been identified in the DEIS. This alignment has the lowest number of potential archeological sites of the proposed build alternatives.

Recommendation: The FEIS should include a complete Phase I survey that includes a discussion regarding the potential impacts to archeological resources by the proposed project. EPA defers to the Alabama Historical Commission and recommends continued consultation with the State Historic Preservation Officer (SHPO) to ensure that the impacts to cultural resources are adequately assessed, documented, and avoided to the extent possible.

Conclusion: Based on our review of this project, EPA has assigned a rating of EC-2 (Environmental Concerns, Insufficient Information) to the DEIS. EPA recommends that the FEIS include a functional assessment of the aquatic resources in the project area, quantify impacts to the 100-year floodplains, and address the issues above. Every effort should be made to further avoid and minimize the environmental impacts related to noise, aquatic resources and community impacts.

Thank you for the opportunity to comment on this project. If you have any questions, please contact Ntale Kajumba of my staff at (404) 562-9620.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

Enclosure: Summary of Rating Definition